

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

KEVIN W. S.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

No. 1:20-CV-1523
(CFH)

Defendant.

APPEARANCES:

Law Offices of Kenneth Hiller, PLLC
6000 North Bailey Avenue – Suite 1A
Amherst, New York 14226
Attorneys for plaintiff

Social Security Administration
J.F.K. Federal Building,
15 New Sudbury Street, Rm. 625
Boston, Massachusetts 02203
Attorney for defendant

OF COUNSEL:

JUSTIN M. GOLDSTEIN, ESQ.
KENNETH R. HILLER, ESQ.

JAMES J. NAGELBERG, ESQ.

**CHRISTIAN F. HUMMEL
U.S. MAGISTRATE JUDGE**

ORDER¹

Presently before the Court in this action, in which plaintiff seeks judicial review of an adverse determination by the Commissioner of Social Security, pursuant to 42 U.S.C. § 405(g), are cross-motions for judgment on the pleadings.² Oral argument was

¹ Parties consented to direct review of this matter by a Magistrate Judge pursuant to 28 U.S.C. § 636(c), FED. R. CIV. P. 73, N.D.N.Y. Local Rule 72.2(b), and General Order 18. See Dkt. No. 5.

² This matter, which is before me on consent of the parties, pursuant to 28 U.S.C. § 636(c), has been treated in accordance with the procedures set forth in General Order No. 18. Under that General Order, once issue has been joined, an action such as this is considered procedurally as if cross-motions for judgment on the pleadings had been filed pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

conducted in connection with these motions on September 8, 2022, during a telephone conference at which a court reporter was present. The transcript of the proceedings is annexed to this Order. At the close of argument, I issued a bench decision which, after applying the requisite deferential standard of review, I found that the Commissioner's determination was not supported by substantial evidence. I provided further detail regarding my reasoning and addressed the specific issues raised by the parties on appeal.

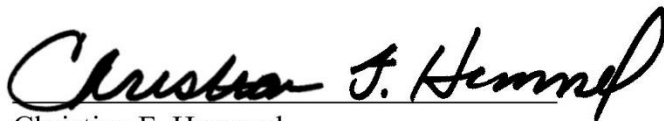
On view of the foregoing, it is hereby

ORDERED that:

1. Plaintiff's motion, Dkt. No. 18, is **GRANTED**;
2. The Commissioner's determination that plaintiff was not disabled at the relevant times is **REVERSED and REMANDED for further proceedings**;
3. Defendant's motion for judgment on the pleadings, Dkt. No. 24, is **DENIED**; and it is further
4. **ORDERED**, that the Clerk of the Court serve copies of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: September 12, 2022
Albany, New York


Christian F. Hummel
U.S. Magistrate Judge